

# Court of Appeals, State of Michigan

## ORDER

Francis Booth v Clinton Machine Company

Docket No. 288944

LC No. 05-000143

Christopher M. Murray  
Presiding Judge

Kirsten Frank Kelly

Karen M. Fort Hood  
Judges

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In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the October 22, 2008, order of the WCAC reversing the magistrate's decision hereby is REVERSED. The WCAC misjudged its role in reviewing the magistrate's decision. The WCAC may not engage in its own independent fact finding if "substantial evidence" on the whole record supported the magistrate's decision. *Mudel v Great Atlantic & Pacific Tea Co*, 462 Mich 691, 698-700 (2000). The magistrate is free to accept the medical evidence he finds most persuasive and where a reasonable basis exists for his findings, the findings should not be disturbed. *Miklik v Michigan Special Machine Co*, 415 Mich 364, 367; 329 NW2d 713 (1982). In this case, substantial evidence on the whole record supported the magistrate's decision. The magistrate's decision is reinstated.

This order is to have immediate effect, MCR 7.215(F)(2).

The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

**MAR 18 2009**

Date

*Sandra Schultz Mengel*  
Chief Clerk